

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, February 17, 2022 - 12:00 to 2:00 p.m.

Attended				Not Present
Judge Keith Kelly	Rob Denton	Michelle Miranda	Holly Thorson	Judge James Brady Brant Christiansen Todd Weiler
Judge David Connors	Rob Ence	Alan Ormsby	James Toledo	
Shane Bahr	Xia Erickson	Andrew Riggle	Michelle Wilkes	
Sarah Box	Wendy Fayles	Danaka Robles	Kaye Lynn Wootton	
Deborah Brown	Leslie Francis	Keri Sargent	Guests:	
TantaLisa Clayton	Nels Holmgren	Shonna Thomas	Nathanael Player	
Katie Cox	Nan Mendenhall	Katie Thomson	Jonathan Puente	

Agenda			
	Topic	Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none"> Housekeeping Minutes 	Judge Kelly	1. WINGS Minutes (December 2021 – draft)
12:10	Stakeholder Updates		
	<ul style="list-style-type: none"> GRAMP Legislative Update Other 	Stakeholders	
12:30	Projects Updates		
	<ul style="list-style-type: none"> Rules 6-501 & 6-507 Rules 1-205 & 3-421 	Judge Kelly Shonna Thomas	2. Rule 6-501 (2.10.22)
12:45	Ongoing Projects		
	<ul style="list-style-type: none"> Accessibility in the Courts 	Judge Kelly Andrew Riggle Katie Cox	Guest Attendees: <ul style="list-style-type: none"> Jonathan Puente (Director, Office of Fairness and Accountability) Nathanael Player (Director, Self Help Center and Law Library)
	<ul style="list-style-type: none"> Utah Code 75-5-303 	Group Discussion	3. Utah Code 75-5-303 (to discuss - 2.14.22) 4. A Guide to Guardianship Medical Evaluations (Foster, Denton, Alderman) 5. The Challenges of Submitting Competent Medical Evidence of Incapacity (Denton)
1:35	New Topics		
	<ul style="list-style-type: none"> Reporting requirements for limited guardian Informal vs. formal accounting forms 	Brant Christiansen	6. Utah Code 75-5-304 7. Utah Code 75-5-312
1:50	Other Business		
	<ul style="list-style-type: none"> 		
2:00	Meeting adjourned		

Housekeeping

- Meeting began at 12:01pm.
- A motion was made to approve the minutes from the previous meeting (December 2021). The motion was seconded and approved.
- Meeting adjourned at 2:03pm.

Stakeholder Updates

GRAMP

- Judge Kelly, Michelle Wilkes, and Shonna Thomas will be presenting at the District Court Conference in March.
 - The conference will be held in person in Moab, UT.
 - It has been several years since district court judges have received a presentation on guardianship and conservatorship issues in Utah.
 - This will be a great opportunity to educate judges on common pitfalls, updates, and provide them with a chance to ask questions.
 - Stakeholders are welcome to email Shonna any specific items or points they would like to have addressed during the presentation.
- Holly Thorson was introduced as the new temporary Court Visitor Program Coordinator (CVPC). Holly's position is funded through the end of June 2022 with ARPA funds. If the funding proposal put forth to the legislature this year is approved, Holly's position will be made permanent.

Legislative Update

- The funding proposal for a second CVPC has made its way through the appropriations subcommittee and full committee and with favorable response. The committee may choose to fund the position with reallocated dollars, which would be great news. More will be known when the budget is finalized/approved toward the end of the session.
- There are two main bills before the legislature this session that deal with guardianship and conservatorship issues – SB0155 and HB0320.
 - Much of the language in SB0155 already exists in Utah Code, but this bill reorganizes the information and places it in order of process. It also clarifies some of the responsibilities of the Office of Public Guardian.
 - HB0320 introduces a guardianship bill of rights.
- Another bill, HB0229, is a property and financial offence amendment that would increase penalties for individuals who exploit others at a higher dollar amount. Although not directly related to guardianship, it could impact the outcome of cases that involve guardianship that the Medicaid Fraud Control Unit handles.

Project Updates

Rules 6-501 & 6-507

The probate subcommittee has been working on the changes recommended by the Policy and Planning committee. The subcommittee will meet again in March to finalize the rules and prepare to present them to Policy and Planning.

Given the feedback and limited changes recommended by Policy and Planning when the rules were first presented in November 2021, it is anticipated that they will be approved with little to no additional changes and sent it to the Judicial Council for final approval.

The clarifications in Rule 6-501 will have a significant impact on judges, specifically the statutory requirement to review annual reports. Some districts already have some type of review process in place, in accordance with Utah Code. For districts where judges are not directly reviewing annual reports, new protocols will need to be created and implemented to comply with the statute and 6-501.

Decisions made -

- Judge Kelly and Katie Thomson will discuss with the 3rd district presiding and associate presiding judges how to prepare the district for the changes coming with the amendments to Rule 6-501 and new coversheet.
- Shonna and Keri Sargent will be discussing the changes at the combined Clerks of Court meeting in March.
- Shane Bahr recommended bringing the topic before the Board of District Court Judges as well.
- The amendments to Rule 6-501, including an introduction to the new coversheet form, will be included in the presentation at the District Court Conference in March.
- These rules will remain on the WINGS agenda.

Rules 1-205 & 3-421

These rules, formalizing WINGS as a Judicial Council committee, were presented to the Policy and Planning committee earlier this month. No changes were recommended; the committee approved the rules to advance to the next step, a 45-day public comment period. Once that period is over, the rules will go back in front of Policy and Planning and subsequently, the Judicial Council for final approval.

Ongoing Projects

Accessibility in the Courts

During the last WINGS meeting, the topic of accessibility in the courts was raised, specifically for individuals with disabilities. Some of the concerns include attendance at guardianship hearings, the ability to attend in person or virtually, and statutory requirements that may not consider accessibility, such as having to make objections in writing. The question was asked, what are the courts doing to ensure persons with disabilities have access to the courts and the ability to engage and participate fully in court proceedings, guardianship or otherwise?

Jonathan Puente (Office of Fairness and Accountability) and Nathanael Player (Self Help Center and Law Library) were invited to attend today's meeting to discuss this topic further.

Nathanael shared the following updates and information on how the court, through various pathways (e.g., Self Help Center, Law Library, Forms committee) aims to improve accessibility:

- Making sure all forms are in plain language.
- Ensuring forms are formatted in an easy-to-digest visual, including white space and clean layouts.
- Reviewing ALL court forms to update them to a format that is more helpful.
- Incorporating more user testing into the forms and other self-help resources, to gain feedback on what is working and what may need additional tweaking.
- Working with the University of Arizona to do user testing on the court webpages.
- Looking at ways to break up the information on webpages into smaller, process-oriented chunks.
- Redesigning the court’s website via the IT department. The new website will allow for data analytics to determine what is working, where people are getting stuck, and how much time is spent on specific pages.

They are also hoping to incorporate a simple “thumbs up-thumbs down” feedback system on whether the page/information was helpful. The ratio of thumbs-down to page views will help identify areas on the website that may need clarification or other attention.

- Expanding self-kiosks to all district court locations, so that people can access their court documents. This can be especially beneficial for people without internet access or those experiencing homelessness.

Discussion -

- This topic includes the need for accommodations, which can look different depending on the individual, enhanced education on court processes and how to navigate the court system, and accessibility of information, to ensure individuals are able to access what they need to fully participate in their case.
- Some of the concerns for people in the disability community are shared by those without a disability who are trying to access the court. This highlights the importance of incorporating a universal design, in which the court system works for everybody, regardless of ability.
- The Forms committee is restricted by civil rules, which dictate to some extent the style and look of court forms. They may look at proposing a rule change so that the layout of forms is more user-friendly and intuitive.
- The civil rules are written with the underlying assumption that an individual is represented by an attorney. However, 88% percent of all civil cases in district court have at least one party who is self-represented. A compromise is needed between what works for court administration and what works for the majority of people coming to the court.
- The mission of the Self Help Center is to help people, regardless of status, money, or case type. They will do their best to help or refer the patron to the very best resource they know. Contacting them by phone is generally the least successful, though calling toward the end of the day or week may have better results. Texting and emailing can be good alternatives.
- One idea is for an ombudsman to help somebody understand the court process at a very basic level, and perhaps interface or serve as a go-between the patron and court staff and judges.
 - Pre-COVID, the Law Library had a student intern who was tasked with helping people find their way in the courthouse. The intern’s responsibilities expanded to assisting with printing and forms, including attending guardianship hearings and providing forms for people in attendance when needed. This arrangement was successful.
 - The Committee on Resources for Self-Represented Parties met recently to discuss a similar concept, referred to as a Navigator, a non-lawyer who is tasked with helping people access the court system. The committee identified that as a high-priority item, and something they plan to explore in more detail.

- An important accessibility issue facing the court is reviewing in-person vs. remote hearings, post-pandemic.
 - The Utah State Bar and the Committee on Resources for Self-Represented Parties are collecting data from people attending remote hearings, to inform the conversation moving forward.
 - The Green Phase Work Group, put together by the Board of District Court Judges, is looking into virtual and in-person hearings, post-pandemic.
 - The Access to Justice Commission at the Utah State Bar is also looking into this issue.
- Virtual participation in hearings increases access to justice in many ways, as legal representation is more readily available. There are also some disabilities that may impact mobility or mental health, making it difficult to attend in person.
- The statute supports in-person guardianship hearings for a reason. Remote hearings could hinder access to justice and due process for some, especially those who have difficulty navigating technology. It can be more difficult to understand what is happening in a hearing over virtual platforms and feel able to participate, ask questions, and be heard, especially in guardianship cases where capacity is being considered.
- There should not be specific restrictions; it should be largely up to judicial discretion to continue virtual hearings in some respect. There may be pushback, and discussions on best practice, but at least we have learned how to do it, which starts the conversation.
- In the Uniform Child Custody, Jurisdiction, and Enforcement Act, there is a provision that specifically states that judges should allow people in other states to appear and testify by phone. Perhaps the court can adopt something similar for guardianship hearings.

Decisions made -

- WINGS will continue the discussion with Office of Fairness and Accountability and the Self Help Center.
- Stakeholders representing agencies who have participated in both virtual and in-person hearings are encouraged to provide feedback to Nathanael Player on their experiences.
- This item will remain on the agenda.

Utah Code 75-5-303

- Due to time constraints, discussion on this topic is deferred to a future meeting.
- To include in the next discussion is the idea of choice and what it means to have an attorney of the respondent’s choice versus an attorney being chosen for the respondent.

New Topics

Reporting requirements for limited guardian

- Brant Christiansen was unable to attend; this item was deferred.

Informal vs. formal accounting forms

- Brant Christiansen was unable to attend; this item was deferred.

Other Business

- One additional consideration for WINGS when looking at guardianship statutes is the appropriateness of guardianship across time. A guardianship put in place when the protected person is a young adult may not need to continue once the protected person has gained additional skills and functional abilities.

Discussion -

- One suggestion is for the court to implement a functional assessment of capacity that takes place across time and is brought back before the court periodically for a review of the appropriateness and degree of the guardianship in place.
- It is challenging for many people to file a motion. The Self Help Center is contacted regularly by people asking about the process to modify or terminate a guardianship. For someone who has spent a lot of time under a guardianship but is coming back to some level of capacity, it is an added burden to file paperwork with the court, and to do so without legal representation is a compounding barrier.
- The Disability Law Center will be giving a presentation to the Elder Law Section on guardianship alternatives, which may help educate more attorneys on these options and attorneys' responsibility to vigorously advocate for their clients.

Decisions made -

- Include this item on the WINGS agenda.

Action Items

<p>CJA Rules 6-501 and 6-507</p> <ul style="list-style-type: none"> – Discuss with the 3rd district presiding and associate presiding judges how to prepare the district for the changes coming with the amendments to Rule 6-501 and new coversheet. 	<p>Judge Kelly Katie Thomson</p>
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Deferred / Continuing Items

- Stakeholder Updates
- Legislative Session Updates
- Utah Code 75-5-303
- Rule 6-501, report coversheet, and review of appointment across time
- Rule 6-507
- Accessibility in the Courts
- Reporting requirements for limited guardian, informal vs. formal accounting forms
- Rules 1-205 & 3-421 (June meeting)

<p>Next Meeting(s):</p>	<p>April 21, 2022 June 16, 2022 August 18, 2022 October 20, 2022 December 15, 2022</p>
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